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2017 New Hampshire Revised Statutes

Title VII - SHERIFFS, CONSTABLES, AND POLICE OFFICERS

Chapter 104 - SHERIFFS AND CONSTABLES

Section 104:28 - Liability for Deputy's Conduct.

Universal Citation: NH Rev Stat § 104:28 (2017)

104:28 Liability for Deputy's Conduct. – The sheriff is liable for the official conduct of his deputies respectively. If a deputy is discharged, the sheriff's liability shall continue until the discharge and certificate of service thereof are recorded.

Source. RS 178:8. CS 189:8. GS 197:23. GL 216:23. PS 212:22. PL 324:26. RL 380:26.

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No Respondent
SUPERIOR CLAIM

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Excessive Force by Police & Related Legal Claims

Civil rights violations by government officials can occur in many situations, but police misconduct may be the most familiar. Concerns over excessive force by police have mounted in recent years. Excessive force violates the Fourth Amendment of the U.S. Constitution, which forbids unreasonable searches and seizures by law enforcement. Victims of excessive force by police can pursue a Section 1983 claim against the officer and potentially their employer. Section 1983 is a federal law (**42 U.S.C. Section 1983**) that allows citizens to hold state or local government officials liable for civil rights violations perpetrated while they are acting under color of law. Federal law enforcement officers may be sued in a *Bivens* action, which is a similar type of claim established by a U.S. Supreme Court decision rather than a statute.

If a plaintiff sustained physical injuries due to excessive force, they can receive compensation for medical treatment for their injuries, as well as lost income while they were recovering. They also can receive compensation for pain and

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suffering and emotional distress. Even if a plaintiff did not incur financial losses like medical bills or lost income, they may still be able to receive compensation for non-economic forms of harm like pain and suffering.

Criminal vs. Civil Cases Based on Excessive Force

Excessive force by police may lead to criminal charges against an officer in addition to a Section 1983 claim. However, the outcome of a criminal case involving excessive force does not dictate the outcome of a Section 1983 claim based on the same incident. The burden of proof is lower in civil cases like Section 1983 claims, and different elements must be shown.

Proving an Excessive Force Claim

As noted above, the civil rights violation must have occurred while the officer was acting under color of law. A police officer generally acts under color of law whenever they are carrying out their official duties or acting in their official role. These include situations when an officer is making an arrest, asking questions after displaying their badge, or pursuing a suspect in a police car, among other examples. An officer who gets in a fight while they are off duty and out of uniform